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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION N
09/855,045	05/15/2001	Maria Raidel	29226-1PCT/US/ KC13,065.1	2567
22827	7590	10/18/2004	EXAMINER	
DORITY & MANNING, P.A. POST OFFICE BOX 1449 GREENVILLE, SC 29602-1449			ANDERSON, CATHARINE L	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 10/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/855,045

Applicant(s)

RAIDEL ET AL.

Examiner

C. Lynne Anderson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 36-40, 42-44, 48-55, 57 and 59-67 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 49-55, 57 and 59-67 is/are allowed.
- 6) ☒ Claim(s) 36-40, 42-44 and 48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 36-40, 43-44, and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sauer (5,527,300) in view of Ahr et al. (4,323,069).

With respect to claims 36 and 48, Sauer discloses all aspects of the claimed invention with the exception of the additional strip of material having openings formed therethrough, the openings being funnel-shaped. Sauer discloses an absorbent article 10, as shown in figure 2, having a length and width, and a front area 12 and rear area 14. The absorbent article 10 comprises a liquid permeable layer 28, a liquid impermeable layer 30, an undulating layer 46, a liquid distribution layer 70, and a liquid storage layer 48, as shown in figure 4. The liquid distribution layer 70 comprises a web of sheet material, as disclosed in column 14, lines 47-55. The undulating layer 46 comprises elongate undulations defining elongate open flow channels between the undulating layer 46 and the underlying and overlying elements, as shown in figure 3.

Ahr discloses a liquid distribution layer 40 comprising a plurality of funnel-shaped openings that taper inwardly, as shown in figure 5. The openings are spaced apart, as shown in figure 5, to form a central area that is devoid of

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openings. The funnel-shaped openings of the liquid distribution layer 40 reduce the amount of liquid that may pass back through the layer 40 without reducing the speed with which liquids pass through the layer, as disclosed in column 12, lines 58-62. It would therefore be obvious to one of ordinary skill in the art at the time of invention to provide tapered openings in the liquid distribution layer of Sauer, as taught by Ahr, in order to reduce the amount of liquid able to pass back through the layer.

With respect to claim 37, the instant claim discloses a product, an absorbent article, rather than a process of making an absorbent article. The disclosure of the openings as being formed after fabrication of the web is therefore considered a product by process limitation, and given minimal patentable weight. The web disclosed by Sauer fulfills all of the structural limitations disclosed in the instant claim.

With respect to claim 38, the undulating layer 46 facilitates transfer of fluid longitudinally, as shown in figure 5.

With respect to claim 39, the channels extend along the length of the absorbent article 10, as shown in figure 5.

With respect to claim 40, the undulating layer 46 is connected at spaced locations to the liquid distribution layer 70, as disclosed in column 21, lines 16-20.

With respect to claim 43, the liquid storage layer 48 extends into the front area 12 and rear area 14, as shown in figure 2. The front and rear areas 12 and 14 may be defined as larger than the central area, and therefore comprise a

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greater volume of the liquid storage layer 48. The liquid storage layer 48 therefore has a higher retention capacity in the front area 12 or rear area 14 than in the central area.

With respect to claim 44, Sauer discloses all aspects of the claimed invention but remains silent as to the way in which the liquid distribution layer and the liquid storage layer are joined. The use of compression to join two layers is well-known in the art as a secure and economical method of joining layers. It would therefore be obvious to one of ordinary skill in the art at the time of invention to join the liquid distribution layer and the liquid storage layer of Sauer by means of compression, in order to have a secure and economical bond.

Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sauer (5,527,300) in view of Ahr et al. (4,323,069), as applied to claim 36 above, and further in view of Chen et al. (6,206,865).

Sauer discloses all aspects of the claimed invention with the exception of the web being an uncreped through-air-dried material. Chen discloses an absorbent article comprising a liquid distribution layer 18. The liquid distribution layer 18 comprises an uncreped through-air-dried material, as disclosed in column 5, lines 12-15, to provide sufficient fluid passage. It would therefore be obvious to one of ordinary skill in the art at the time of invention to construct the web of Sauer from an uncreped through-air-dried material, as taught by Chen, to provide sufficient fluid passage.

***Allowable Subject Matter***

Claims 49-55, 57, and 59-67 are allowed.

### ***Response to Arguments***

Applicant's arguments filed 2 August 2004, with respect to the rejection of claims 49, 54, 55, 57, 59, 62, and 65-67 have been fully considered and are persuasive. The rejection of claims 49, 54, 55, 57, 59, 62, and 65-67 has been withdrawn.

Applicant's arguments filed 2 August 2004, with respect to the rejection of claims 36-40, 42-44, and 48 have been fully considered but they are not persuasive. The claim does not define any special limitations for the central area that is devoid of openings. Therefore, any area in the center of the strip of material that is devoid of openings fulfills the claimed limitations. The strip of material disclosed by Ahr, comprising a plurality of openings which are spaced apart such that a portion in the center of the material is devoid of openings. Thus, Sauer, as modified by Ahr, discloses all aspects of the claimed invention.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory

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action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (703) 306-5716. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Schwartz can be reached on (703) 308-1412. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CWA  
cla

October 14, 2004



Larry I. Schwartz  
Supervisory Patent Examiner  
Group 3700